

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE WESTERN DISTRICT OF OKLAHOMA**

3 TRIBE COLLECTIVE LLC,

4 Plaintiff,

5 v.
6

7 KINSALE INSURANCE COMPANY,

8 Defendants.
9

Case No. CIV-22-788-PRW

*Removed from Case No. CJ-2022-1697;
District Court of Oklahoma County, State
of Oklahoma*

10
11 **NOTICE OF REMOVAL**

12 Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Kinsale Insurance
13 Company (“Kinsale”), by and through its attorneys of record, hereby provides notice of
14 removal of *Tribe Collective LLC v. Kinsale Insurance Company*, Case No. CJ-2022-1697,
15 filed in the District Court of Oklahoma County, State of Oklahoma (the “State Court
16 Action”) to the United States District Court for the Western District of Oklahoma on the
17 basis of diversity jurisdiction. Removal is authorized and appropriate on the following
18 grounds:

19 **PROCESS, PLEADINGS, AND ORDERS**

20 1. 28 U.S.C. § 1446(a) provides that “[a] defendant or defendants desiring to
21 remove any civil action from a State court shall file...a notice of removal signed pursuant
22 to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain
23 statement of the grounds for removal, together with a copy of all process, pleadings, and
24 orders served upon such defendant or defendants in such action.”

25 2. Attached to the accompanying Declaration of Caleb McKee (“McKee
26 Decl.”) are the following documents which constitute the entire Court file in the State
27 Court Action:
28

- a. **Exhibit 1** is a true and correct copy of TRIBE COLLECTIVE LLC (“TRIBE COLLECTIVE”)’s Petition, styled as *Tribe Collective LLC v. Kinsale Insurance Company*, Case No. CJ-2022-1697, filed on April 13, 2022, in the District Court of Oklahoma County, State of Oklahoma (“Petition”);
- b. **Exhibit 2** is a true and correct copy of the Entry of Appearance of Counsel for TRIBE COLLECTIVE, James Thiessen;
- c. **Exhibit 3** is a true and correct copy of the Entry of Appearance of Counsel for TRIBE COLLECTIVE, Kevin Combs;
- d. **Exhibit 4** is a true and correct copy of the Entry of Appearance of Counsel for KINSALE, Caleb McKee;
- e. **Exhibit 5** is a true and correct copy of KINSALE’s Answer to TRIBE COLLECTIVE’s Petition, filed on May 23, 2022;
- f. **Exhibit 6** is a true and correct copy of the Return of Service, filed on June 3, 2022;
- g. **Exhibit 7** is a true and correct copy of a printout of the District Court of Oklahoma, State of Oklahoma’s docket in the State Court Action.

McKee Decl. ¶¶ 3-9.

DIVERSITY OF PARTIES

3. 28 U.S.C. § 1332(a)(1) provides “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different States.”

4. As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal, Plaintiff TRIBE COLLECTIVE was and still is an Oklahoma Limited Liability Company whose principal place of business is located in Okemah, Oklahoma. As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal:

a. TRIBE COLLECTIVE has and had no individual members;

b. The only member of TRIBE COLLECTIVE was and is The Lower 80, LLC; and

c. TRIBE collective was and is a wholly owned subsidiary of The Lower 80 LLC.
McKee Decl. ¶ 10(a), 10(b).

As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal, The Lower 80 LLC was and still is an Oklahoma Limited Liability Company whose principal place of business was and is located in Oklahoma City, Oklahoma. McKee Decl. ¶ 10(c).

5. As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal, all of the members of The Lower 80 LLC were and still are individuals who were and are all residents of the State of Oklahoma with the intent to permanently remain as residents therein, and have no current plans to move their domiciles from the State of Oklahoma. McKee Decl. ¶ 10(d).

6. As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal, the only members of The Lower 80 LLC were Joseph Medley, whose domicile was and is located in Oklahoma City, Chase Mattison, whose domicile was and is located in Oklahoma City, Nathan Mattison, whose domicile was and is located in Oklahoma City, and Tyler Morey, whose domicile was and is located in Oklahoma City. No person or entity other than these four individuals was or became a member of The Lower 80, LLC at any time from the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal. McKee Decl. ¶ 10(e).

7. TRIBE COLLECTIVE is, therefore, a “citizen” of Oklahoma.

8. As of the date of the filing of the original Petition in the State Court Action, and continuing through the date of this Notice of Removal, Defendant KINSALE was and

still is an Arkansas Corporation and maintains its principal place of business in Richmond Virginia. McKee Decl. ¶ 11.

9. KINSALE is, therefore, a “citizen” of either Arkansas or Virginia, but not Oklahoma.

10. Accordingly, diversity of citizenship between TRIBE COLLECTIVE and KINSALE exists under 28 U.S.C. § 1332(a) as required for removal pursuant to 28 U.S.C. § 1446.

AMOUNT IN CONTROVERSY

11. 28 U.S.C. § 1446(c)(2)(B) provides “removal of the action is proper on the basis of an amount in controversy...if the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds the amount specified in section 1332(a).”

12. 28 U.S.C. § 1332(a) provides “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs....”

13. TRIBE COLLECTIVE has responded to KINSALE’s Request for Admission No. 1 in the State Court Action that its claim for damages against KINSALE exceeds \$75,000. TRIBE COLLECTIVE also asserts that “the insured is seeking the policy limit for cannabis product and the policy limit for lost profits.” The insurance policy which is the subject of this action has a limit in excess of \$75,000. McKee Decl. ¶ 10(f).

14. Therefore, KINSALE has met the amount in controversy requirement.

TIMELINESS

15. 28 U.S.C. § 1446(b)(2)(B) provides that “if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”

22. KINSALE is the only named defendant in the State Court Action and hereby consents to the removal of the State Court Action to this Court. McKee Decl. ¶ 15.

23. Based on a reasonable investigation, it is well grounded in fact and warranted by law that this Notice of Removal is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation. McKee Decl. at ¶ 16.

WHEREFORE, KINSALE respectfully request that the above-captioned action, pending in the District Court of Oklahoma County, State of Oklahoma, Case No. CJ-2022-1697, be removed from that court to this Court.

Dated: September 6, 2022

Respectfully submitted,
HOLDEN LITIGATION, *Holden P.C.*



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